

2009 DRAFTING REQUEST

Bill

Received: **09/21/2009**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Carrie Kahn**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - day care**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Day care licensing

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 09/23/2009	kfollett 09/24/2009		_____			S&L
/1			rschluet 09/24/2009	_____	mbarman 09/24/2009		S&L
/2	gmalaise 09/27/2009	kfollett 09/28/2009	rschluet 09/28/2009	_____	sbasford 09/28/2009	mbarman 10/01/2009	

FE Sent For: "1/2" @ intro. 10/2/09 <END>

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4289 <END>

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/?	gmalaise	11/5f 9/24	9/24	PH 9/24			
FE Sent For:							
<END>							

Malaise, Gordon

From: Kahn, Carrie
Sent: Thursday, September 17, 2009 2:25 PM
To: Malaise, Gordon
Cc: Sappenfield, Anne
Subject: Bill draft request: Day care licensing regs
Attachments: dhs012_app_a[1].pdf

Hi Gordon,

I have another bill draft I need! This one is another urgent bill (as everyone tells you, I'm sure ☺), so hoping we can stay in close contact about its progress and how long it might take to draft.

This deals with daycare licensing regulations and what constitutes a basis to bar someone from being licensed or certified as a childcare provider—basically we want to mirror the Foster Care regulations in DHS 12 (attached, p. 51-52), with some changes:

- ✓ 1. For felony child support – instead of that being a permanent bar, make it a 5 year bar (948.22) and put in some provision stating that since being charged they have either paid the arrears in full or are current on any payment plan the court may have set up (and are currently not in arrears on any current orders that may exist)—is this possible?
- ✓ 2. Same for felony hazing, 5 year bar (948.51)
- ✓ 3. felony operating a motor vehicle without owner's consent – carjacking, 5 year bar.

A couple of other things to add:

- ✓ if DCF has suspended your Shares payments as a parent due to fraud then you can not be licensed or certified and/or and therefore cannot receive Shares payments as a provider
- ✓ If you've been "convicted" (not sure if this is the proper term to use) of other public assistance fraud (food stamps, MA) then there's a 5 year bar—we'd like to make that permanent.

All above will be for all licensed and certified providers, not just those receiving Shares payments

We have to include some sort of appeals process – whatever DCF currently uses – if your license is suspended, revoked or your application for licensure is denied based on any of the above.

- ✓ DHS does a summary suspension of payments if you're accused of a crime that could get your license yanked but you've not yet been convicted or found guilty of the violation. We want to do the same, immediately suspend Shares payments if you're under investigation for one of the above violations.

- ✓ Also DCF currently does reviews every 4 years on child care providers, but we want to make it 2 years *every quarter*.

- ✓ Still leave in the provision that the licensee is responsible for doing background checks on all their employees who work in the center and no one who violates any of the above may even be employed as a daycare worker.

Thanks!

Carrie Kahn
 Legislative Assistant
 State Senator Bob Jauch
 P.O. Box 7882
 Madison, WI 53707-7882

608-266-3510
 1-800-469-6562

09/17/2009

Malaise, Gordon

From: Kahn, Carrie
Sent: Wednesday, September 23, 2009 10:27 AM
To: Malaise, Gordon
Cc: Sappenfield, Anne; Russell, Angela R - DCF; McGinnis, Cindy
Subject: URGENT--Child Care Regulations bill draft

Importance: High

Hi Gordon,

We need to make some further additions to the Child Care Regulations bill that I sent to you for drafting last week. I will be calling as soon as I have sent this to discuss timing.

Further additions to the Child Care Regulations bill:

- ✓ --Specify that any entity that conducts background checks on a certified or licensed childcare provider, and those who may reside at the location of the daycare or are employed by the provider, must include a check of the sex offender registry.
- ✓ --Background checks not conducted directly through the state or county must include substantiations of abuse and/or neglect *Carrie Kahn*
- ✓ --Require that DCF reviews providers every quarter, rather than every 4 years. Providers must obtain information forms from their employees regarding any criminal history once per year, rather than every four years, and submit those to DCF or the county (depending on whether they are certified or licensed)
- ✓ --Increase penalties for providers and employees who provide false information by cross referencing 48.685 (4) and 48.685 (6c) in the list of permanent bars for child care.

providers
Carrie Kahn
Legislative Assistant
State Senator Bob Jauch
P.O. Box 7882
Madison, WI 53707-7882

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Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter DHS 12

APPENDIX A

OFFENSES AFFECTING CAREGIVER ELIGIBILITY SEPTEMBER, 2000

INTRODUCTION

This document lists Wisconsin crimes and other offenses that the Wisconsin State Legislature, under the Caregiver Law, ss. 48.685 and 50.065, Stats., has determined either require rehabilitation review approval before a person may receive regulatory approval, may work as a caregiver, may reside as a nonclient resident at or contract with an entity, or that act to permanently bar a person from receiving regulatory approval to be a foster parent.

Note: This table reflects changes in the caregiver law made by 1999 Wisconsin Act 9.

If a person has been convicted of a crime in another state or jurisdiction, the entity or regulatory agency must locate on the table below the Wisconsin crime that is identical or most similar to the crime for which the person was convicted and apply the consequence identified. This instruction also applies if the person was convicted in Wisconsin, but the statute number or crime title has been changed or amended. For example, convictions under Chapter 961, the Uniform Controlled Substances Act, were previously convictions under Chapter 161.

Notwithstanding s. 111.335, Stats., ss. 48.685 (5m) and 50.065 (5m), Stats., permit a regulatory agency to deny regulatory approval or an entity to refuse to employ, contract with or permit to reside at the entity a person whom the regulatory agency or entity determines has been convicted of a crime that is "substantially related" to the care of a client. The agency or entity may review a conviction to make that determination when: (a) The person has been convicted in Wisconsin or another state or jurisdiction of any crime that is not listed in this appendix; or (b) The person has been convicted of a crime that is listed in part III. of this appendix for foster care purposes only.

Under the Caregiver Law, current limitations on a person's professional credentials may limit the person's eligibility for employment or licensure in a position for which the person must be credentialed by the department of regulation and licensing.

If a Background Information Disclosure form, a caregiver background check, or any other information shows that a person was convicted of any of the offenses immediately below within 5 years before the information was obtained, the department, county department, child welfare agency, school board, or entity, as applicable, shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that conviction.

- 940.19 (1) Misdemeanor battery
- 940.195 Battery to an unborn child
- 940.20 Battery, special circumstances
- 941.30 Reckless endangerment
- 942.08 Invasion of privacy
- 947.01 Disorderly conduct
- 947.013 Harassment

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I. Entities and Programs Serving Only Persons 18 Years of Age or Older

CONVICTIONS

Regulatory approval, employment as a caregiver, and nonclient residency at or contracting with an entity are prohibited until rehabilitation approval is received, for all programs and entities that serve only clients 18 years of age or older.

Wis. Stats.	Crime
940.01	First degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients and residents (misdemeanor or felony)
948.02 (1)	1st degree sexual assault of a child
948.025	Repeated acts of sexual assault of a child
948.03 (2) (a)	Physical abuse of a child – intentional – cause great bodily harm

OTHER OFFENSES

—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property
—	Finding by a governmental agency of child abuse or neglect

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

II. Entities and Programs Serving Any Clients Under the Age of 18

CONVICTIONS

Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are prohibited until rehabilitation approval is received, for all entities and programs that serve any clients who are under the age of 18. (For additional federal foster care bars, see part III. below.)

Wis. Stats.	Crime
940.01	First degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients & residents (misdemeanor or felony)
948.02 (1) or (2)	1st or 2nd degree sexual assault of a child
948.025	Repeated acts of sexual assault of same child
948.03 (2) (a), (b), or (c)	Physical abuse of a child – intentional causation of bodily harm
948.05	Sexual exploitation of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)
948.12	Possession of child pornography
948.13	Child sex offender working with children
948.21 (1)	Neglect of a child – resulting in death (felony)
948.30	Abduction of another's child; constructive custody

OTHER OFFENSES

—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property
—	Finding by a governmental agency of child abuse or neglect

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III. Foster Care

CONVICTIONS

By federal or state law, for **Foster Homes and Treatment Foster Homes**, regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred as follows:

Permanent bar = Conviction acts as permanent bar.

Spouse = Permanent bar applies when spouse was the victim in the offense.

5 years = Bar is for 5 years from time crime committed.

Spouse / 5 years / R = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed; then must show rehabilitation.

Spouse / 5 years = If spouse was the victim, bar is permanent. In other cases, bar is for 5 years from time crime committed.

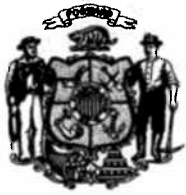
Bar w/ rehab = Regulatory approval, employment as a caregiver, and nonclient residency at and contracting with an entity are barred until rehabilitation approval is received.

Wis. Stats.	Crime	Federal law / Foster Care Bar
940.01	First degree intentional homicide	Permanent bar
940.02	1st degree reckless homicide	Permanent bar
940.03	Felony murder	Permanent bar
940.05	2nd degree intentional homicide	Permanent bar
940.06	2nd degree reckless homicide	Permanent bar
940.12	Assisting suicide	Bar w/ rehab
940.19 (2) through (6)	Battery (felony)	Spouse / 5 years / R
940.20	Battery – special circumstances	5 years
940.20 (1) or (1m)	Battery – special circumstances	Spouse
940.203	Battery or threat to judge	5 years
940.205	Battery or threat to a Department of Revenue employee	5 years
940.207	Battery or threat to a Department of Commerce or DWD employee	5 years
940.21	Mayhem	Permanent bar
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report	Bar w/ rehab
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault	Permanent bar
940.23	Reckless injury	Permanent bar
940.285	Abuse of vulnerable adults (misdemeanor or felony)	Bar w/ rehab
940.29	Abuse of residents of a penal facility	Bar w/ rehab
940.295	Abuse or neglect of patients or residents (misdemeanor or felony)	Bar w/ rehab
940.305	Taking hostages	Permanent bar
940.31	Kidnapping	Permanent bar
941.20 (2) or (3)	Endangers safety by use of a dangerous weapon	Permanent bar
941.21	Disarming a peace officer	Permanent bar
943.10(2)	Burglary while armed	Permanent bar
943.23 (1g), (1m) or (1r)	Operating motor vehicle without owner's consent (OMVWOC)	Permanent bar
943.32 (2)	Robbery with dangerous weapon	Permanent bar
948.02 (1), (2), (3), or (3m)	1st or 2nd degree sexual assault of a child; failure to act; penalty enhancement	Permanent bar
948.025	Repeated acts of sexual assault of a child	Permanent bar
948.03 (2), (3), or (4)	Physical abuse of a child	Permanent bar
948.04	Causing mental harm to a child	Permanent bar
948.05	Sexual exploitation of a child	Permanent bar
948.055	Causing a child to view or listen to sexual activity	Permanent bar
948.06	Incest with a child	Permanent bar

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III. Foster Care – Continued

CONVICTIONS		
Wis. Stats.	Crime	Federal law / Foster Care Bar
948.07	Child enticement	Permanent bar
948.08	Soliciting a child for prostitution	Permanent bar
948.095	Sexual assault of student by school staff	Permanent bar
948.11 (2) (a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)	Permanent bar
948.12	Possession of child pornography	Permanent bar
948.13	Child sex offender working with children	Permanent bar
948.20	Abandonment of a child	Permanent bar
948.21 (1)	Neglect of a child – resulting in death (felony)	Permanent bar
948.22	Failure to support (felony)	Permanent bar
948.23	Concealing death of a child	Permanent bar
948.24	Unauthorized placement for adoption	Permanent bar
948.30	Abduction of another's child; constructive custody	Permanent bar
948.31	Interference with custody by parent or others	Permanent bar
948.35	Solicitation of a child to commit a felony	Permanent bar
948.36	Use of a child to commit a class A felony	Permanent bar
948.40	Contributing to the delinquency of a minor (felony)	Permanent bar
948.51	Hazing (felony)	Permanent bar
948.60	Possession of a dangerous weapon by a person under 18 (felony)	Permanent bar
948.605 (3)	Gun-free school zones; discharge of firearm in a school zone (felony)	Permanent bar
948.61	Dangerous weapons other than firearms on school premises (felony)	Permanent bar
948.62	Receiving stolen property from a child (felony)	Permanent bar
—	All other Chapter 948 crimes that are felonies	Permanent bar
961.41 (1)	Manufacture, distribution or delivery (felony)	5 years
961.41 (1m)	Possession with intent to manufacture, distribute, or deliver (felony)	5 years
961.41 (3g)	Possession (felony)	5 years
961.43 (1)(a)	Acquire or obtain possession of controlled substances by fraud, misrepresentation, or forgery, deception, or subterfuge (felony)	5 years
961.43 (1)(b)	To possess/make a counterfeit substance or to duplicate the appearance, packaging, form or label of a controlled substance (felony)	5 years
961.455	Using a child for illegal drug distribution or manufacturing purposes (felony)	5 years
961.46	Distribution to persons under 18 (felony)	5 years
961.465	Distribution to prisoners	5 years
961.49	Distribution of or possession with intent to deliver at or near certain places	5 years
961.492	Distribution of or possession with intent to deliver on public transit (felony)	5 years
—	All other ch. 961 offenses that are felonies	5 years
OTHER OFFENSES		
—	Finding by a governmental agency of neglect or abuse of a client, or of misappropriation of a client's property	Bar w/ rehab
—	Finding by a governmental agency of child abuse or neglect	Bar w/ rehab



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3492/1

GMM...:KF

LN 9/23
Wentel 9/24

Gen

1 AN ACT ...; relating to: prohibiting a person who has been convicted or
2 adjudicated delinquent for committing certain serious crimes or who is the
3 subject of a pending criminal charge or delinquency petition for committing a
4 serious crime from being licensed, certified, or contracted with to provide child
5 care, from being employed or contracted as a caregiver of a child care provider,
6 or from being permitted to reside at a premises where child care is provided and
7 making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families (DCF) may not license a person to operate a day care center; DCF in a county having a population of 500,000 or more, a county department of human services or social services (county department), or an agency contracted by DCF to certify day care providers for purposes of reimbursement under the Wisconsin Works Program (contracted agency) may not certify a day care provider for those purposes; and a school board may not contract with a person to provide a day care program (collectively "child care provider") if the person has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the person shows that he or she has been rehabilitated.

Similarly, a child care provider may not employ or contract with a caregiver or permit a nonclient resident to reside at a premises where child care is provided if the caregiver or nonclient resident has been convicted or adjudicated delinquent on or

Editor-
similar
to
-3047/3
compared
drafts

after his or her 12th birthday for committing a serious crime, as defined under current law, unless the caregiver or nonclient resident shows that he or she has been rehabilitated. Currently, "serious crime" is defined to include certain crimes against life or bodily security and certain crimes against children that are felonies. (bn)

This bill prohibits any person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following serious crimes or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of the following serious crimes ^(felony) or after his or her 12th birthday from being licensed, certified, or contracted with to provide child care, from being employed or contracted as a caregiver of a child care provider, or from being permitted to be a nonclient resident of a premises where child care is provided and prohibits such a person from showing that he or she has been rehabilitated: ^(felony) ^{spousal, or grandchild} ^(felony)

1. Any crime against children other than failure to pay child support or hazing.
2. Felony battery, if the victim is the spouse of the person.
3. First-degree or second-degree intentional or reckless homicide, felony murder, mayhem, felony sexual assault, reckless injury, taking hostages, kidnapping, felony endangering safety by use of a dangerous weapon, disarming a police officer, armed burglary, or armed robbery.
4. A violation of the background check law, if the violation involves the provision of false information to DCF, a county department, a contracted agency, a school board, or a child care provider.
5. An offense involving fraudulent activity as a participant in the Wisconsin Works Program, including as a recipient of a child care subsidy under that program, or as a recipient of aid to families with dependent children, medical assistance, food stamp benefits, supplemental security payments, payments for the support of children of supplemental security income recipients, or health care benefits under the Badger Care Program.
6. Any drug or alcohol-related felony, felony battery, carjacking, or felony hazing, if committed not more than five years before the date of the background investigation.
7. Felony failure to pay child, spousal, or grandchild support, if committed not more than five years before the date of the background investigation, unless the person has paid all arrearages and is meeting his or her current support obligation.

Current law requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every four years after that, to conduct a criminal history search of the child care provider, of all nonclient residents of the premises where the child care is provided, and of all persons under 18 years of age who are caregivers of the child care provider and to obtain certain other information with respect to those individuals, specifically: 1) information from the client abuse registry maintained by the Department of Health Services (DHS); 2) information maintained by the Department of Regulation and Licensing regarding the individual's credentials; 3) information maintained by DCF regarding any substantiated reports of child abuse or neglect against the individual; and 4) information maintained by DHS regarding

any denial of a license, certification, or contract to provide child care, of employment as a caregiver of a child care provider, or of permission to reside at a premises where child care is provided. Similarly, current law also requires a child care provider to conduct such a criminal history search and to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every four years after that.

This bill requires DCF, a county department, a contracting agency, or a school board to conduct that criminal history search and to obtain that information with respect to a child care provider every three months after the child care provider is licensed, certified, or contracted with and to conduct that search and obtain that information with respect to a nonclient resident or caregiver under 18 years of age every year after the nonclient resident is permitted to reside at the premises or the caregiver is employed or contracted with. The bill also requires a child care provider to conduct that criminal history search and to obtain that information every year after a caregiver 18 years of age or over is employed or contracted with. In addition to conducting that criminal history search and obtaining that information, the bill requires DCF, a county department, a contracting agency, a school board, or an entity to obtain on those timetables information that is contained in the sex offender registry maintained by the Department of Corrections regarding whether the person has committed a sex offense that is a serious crime.

Under current law, DCF *may* revoke the license of a person to operate a day care center if the licensee or a person under the supervision of the licensee commits certain actions, including a repeated or substantial violation of a rule or order of DCF or of a condition of licensure or an action that directly threatens the health, safety, or welfare of any child under the care of the licensee. Similarly, under current law, DCF or a county department *may* refuse to pay a child care provider for child care provided under the Wisconsin Works Program if the child care provider, an employee of the child care provider, or a person living on the premises where child care is provided is convicted of a felony or misdemeanor that substantially relates to the care of children, is the subject of a pending charge that substantially relates to the care of children, or has been determined to have abused or neglected a child.

This bill *requires* all of the following:

1. DCF to revoke the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to revoke the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to rescind the contract of the person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is convicted of a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to refuse to pay a child care provider in those circumstances beginning on the date of the conviction or delinquency adjudication.

2. DCF to immediately suspend the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to immediately suspend the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to immediately suspend the contract of a person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is the subject of a pending criminal charge alleging that the person has committed a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is the subject of a pending charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to immediately suspend payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances until DCF or the county department obtains information regarding the final disposition of the charge or delinquency proceeding indicating that the person is not ineligible to receive such a payment.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

3 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
4 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a), (am), and (b),
5 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and
6 (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981,
7 and 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities
8 plan and rule development activities, for accrediting nursing homes, convalescent
9 homes, and homes for the aged, to conduct capital construction and remodeling plan
10 reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing
11 or certifying, and approving facilities, issuing permits, and providing technical
12 assistance, that are not specified under any other paragraph in this subsection. All

1 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
2 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93
3 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing
4 or certifying, and approving facilities, issuing permits, and providing technical
5 assistance, that are not specified under any other paragraph in this subsection, and
6 all moneys received under s. 50.135 (2) shall be credited to this appropriation
7 account.

8 **SECTION 2.** 48.651 (3) of the statutes is created to read: ✓

9 48.651 (3) (a) If a day care provider certified under sub. (1) is convicted of a
10 serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685
11 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care
12 provider is convicted or adjudicated delinquent for committing a serious crime on or
13 after his or her 12th birthday, the department in a county having a population of
14 500,000 or more, a county department, or an agency contracted with under sub. (2)
15 shall revoke the certification of the day care provider immediately upon providing
16 written notice of revocation and the grounds for revocation and an explanation of the
17 process for appealing the revocation.

18 (b) If a day care provider certified under sub. (1) is the subject of a pending
19 criminal charge alleging that the person has committed a serious crime, as defined
20 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
21 resident, as defined in s. 48.685 (1) (bm), of the day care provider is the subject of a
22 pending criminal charge or delinquency petition alleging that the person has
23 committed a serious crime on or after his or her 12th birthday, the department in a
24 county having a population of 500,000 or more, a county department, or an agency
25 contracted with under sub. (2) shall immediately suspend the certification of the day

1 care provider until the department, county department, or agency obtains
2 information regarding the final disposition of the charge or delinquency petition
3 indicating that the person is not ineligible to be certified under sub. (1).

4 **SECTION 3.** 48.685 (1) (c) 3m. of the statutes is created to read:

5 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day care center
6 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
7 person under s. 120.13 (14) to operate a day care center, or of permitting a person to
8 be a caregiver or nonclient resident of such a day care center or day care provider,
9 any violation listed in subds. 1. to 3. or sub. (5) (br) 1. to 7.

10 **SECTION 4.** 48.685 (1) (c) 4. of the statutes is amended to read:

11 48.685 (1) (c) 4. A violation of the law of any other state or United States
12 jurisdiction that would be a violation listed in subd. 1., 2., ~~or~~ 3., or 3m. if committed
13 in this state.

14 **SECTION 5.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

15 48.685 (2) (am) (intro.) The department, a county department, an agency
16 contracted with under s. 48.651 (2), a child welfare agency, or a school board shall
17 obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b.,
18 a nonclient resident of an entity, and a person under 18 years of age, but not under
19 12 years of age, who is a caregiver of a day care center that is licensed under s. 48.65
20 or established or contracted for under s. 120.13 (14) or of a day care provider that is
21 certified under s. 48.651:

22 **SECTION 6.** 48.685 (2) (am) 5. of the statutes is amended to read:

23 48.685 (2) (am) 5. Information maintained by the department of health services
24 under this section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding
25 any denial to the person of a license, continuation or renewal of a license,

1 certification, or a contract to operate an entity for a reason specified in sub. (4m) (a)
2 1. to 5. and regarding any denial to the person of employment at, a contract with, or
3 permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the
4 information obtained under this subdivision indicates that the person has been
5 denied a license, continuation or renewal of a license, certification, a contract,
6 employment, or permission to reside as described in this subdivision, the
7 department, a county department, an agency contracted with under s. 48.651 (2), a
8 child welfare agency, or a school board need not obtain the information specified in
9 subds. 1. to 4.

10 **SECTION 7.** 48.685 (2) (ar) of the statutes is created to read:

11 48.685 (2) (ar) In addition to obtaining the information specified in par. (am)
12 with respect to a person who has, or is seeking, a license to operate a day care center
13 under s. 48.65, certification as a day care provider under s. 48.651, or a contract
14 under s. 120.13 (14) to operate a day care center, a nonclient resident of such an
15 entity, or a person under 18 years of age, but not under 12 years of age, who is a
16 caregiver of such an entity, the department, a county department, an agency
17 contracted with under s. 48.651 (2), or a school board shall obtain information that
18 is contained in the sex offender registry under s. 301.45[✓] regarding whether the
19 person has committed a sex offense that is a serious crime.

20 **SECTION 8.** 48.685 (2) (b) 2. of the statutes is created to read:

21 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.
22 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day care center that is
23 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a
24 day care provider that is certified under s. 48.651, the day care center or day care
25 provider shall obtain information that is contained in the sex offender registry under

✓
1 s. 301.45 regarding whether the person has committed a sex offense that is a serious
2 crime.

✓
3 **SECTION 9.** 48.685 (2) (b) 4. of the statutes is amended to read:

4 48.685 (2) (b) 4. ~~Subdivision 1. does~~ Subdivisions 1. and 2. do not apply with
5 respect to a nonclient resident or person under 18 years of age, but not under 12 years
6 of age, who is a caregiver ~~or nonclient resident~~ of a day care center that is licensed
7 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
8 provider that is certified under s. 48.651 and with respect to whom the department,
9 a county department, an agency contracted with under s. 48.651 (2), or a school board
10 is required under par. (am) (intro.) to obtain the information specified in par. (am)
11 1. to 5.

✓
12 **SECTION 10.** 48.685 (2) (bb) of the statutes is amended to read:

13 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a
14 charge of a serious crime, but does not completely and clearly indicate the final
15 disposition of the charge, the department, county department, agency contracted
16 with under s. 48.651 (2), child welfare agency, school board, or entity shall make
17 every reasonable effort to contact the clerk of courts to determine the final disposition
18 of the charge. If a background information form under sub. (6) (a) or (am) indicates
19 a charge or a conviction of a serious crime, but information obtained under par. (am)
20 or (b) 1. does not indicate such a charge or conviction, the department, county
21 department, agency contracted with under s. 48.651 (2), child welfare agency, school
22 board, or entity shall make every reasonable effort to contact the clerk of courts to
23 obtain a copy of the criminal complaint and the final disposition of the complaint.
24 If information obtained under par. (am) or (b) 1., a background information form
25 under sub. (6) (a) or (am), or any other information indicates a conviction of a

1 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained
2 not more than 5 years before the date on which that information was obtained, the
3 department, county department, agency contracted with under s. 48.651 (2), child
4 welfare agency, school board, or entity shall make every reasonable effort to contact
5 the clerk of courts to obtain a copy of the criminal complaint and judgment of
6 conviction relating to that violation.

7 **SECTION 11.** 48.685 (2) (bd) of the statutes is amended to read:

8 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
9 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
10 or a school board is not required to obtain the information specified in par. (am) 1.
11 to 5., and an entity is not required to obtain the information specified in par. (b) 1.
12 a. to e., with respect to a person under 18 years of age whose background information
13 form under sub. (6) (am) indicates that the person is not ineligible to be employed,
14 contracted with, or permitted to reside at an entity for a reason specified in sub. (4m)
15 (b) 1. to 5. and with respect to whom the department, county department, contracted
16 agency, child welfare agency, school board, or entity otherwise has no reason to
17 believe that the person is ineligible to be employed, contracted with, or permitted to
18 reside at an entity for any of those reasons. This paragraph does not preclude the
19 department, a county department, an agency contracted with under s. 48.651 (2), a
20 child welfare agency, or a school board from obtaining, at its discretion, the
21 information specified in par. (am) 1. to 5. with respect to a person described in this
22 paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

23 **SECTION 12.** 48.685 (2) (bg) of the statutes is amended to read:

24 48.685 (2) (bg) If an entity employs or contracts with a caregiver for whom,
25 within the last 4 years year, the information required under par. (b) 1. a. to c. and e.

1 has already been obtained by another entity, the entity may obtain that information
2 from that other entity, which shall provide the information, if possible, to the
3 requesting entity. If an entity cannot obtain the information required under par. (b)
4 1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe
5 that any information obtained from another entity is no longer accurate, the entity
6 shall obtain that information from the sources specified in par. (b) 1. a. to c. and e.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28.

7 **SECTION 13.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am),
9 (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years
10 preceding the date of the search that person has not been a resident of this state, or
11 if the department, county department, agency contracted with under s. 48.651 (2),
12 child welfare agency, school board, or entity determines that the person's
13 employment, licensing, or state court records provide a reasonable basis for further
14 investigation, the department, county department, contracted agency, child welfare
15 agency, school board, or entity shall make a good faith effort to obtain from any state
16 or other United States jurisdiction in which the person is a resident or was a resident
17 within the 3 years preceding the date of the search information that is equivalent to
18 the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county
19 department, contracted agency, child welfare agency, school board, or entity may
20 require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete
21 set of the person's fingerprints. The department of justice may provide for the
22 submission of the fingerprint cards to the federal bureau of investigation for the
23 purposes of verifying the identity of the person fingerprinted and obtaining records
24 of his or her criminal arrests and convictions.

1 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

2 48.685 (3) (a) ~~Every~~ [✓] Subject to par. (am), every 4 years or at any time within
3 that period that the department, a county department, or a child welfare agency, ~~or~~
4 ~~a school board~~ considers appropriate, the department, county department, or child
5 welfare agency, ~~or school board~~ shall request the information specified in sub. (2)
6 (am) 1. to 5. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified,
7 or contracted to operate an entity; and for all persons who are nonclient residents of
8 such a caregiver, ~~and for all persons under 18 years of age, but not under 12 years~~
9 ~~of age, who are caregivers of a day care center that is licensed under s. 48.65 or~~
10 ~~established or contracted for under s. 120.13 (14) or of a day care provider that is~~
11 ~~certified under s. 48.651.~~

12 **SECTION 15.** 48.685 (3) (am) of the statutes is created to read:

13 48.685 (3) (am) 1. Every 3 months or at any time within that period that the
14 department, a county department, an agency contracted with under s. 48.651 (2), or
15 a school board considers appropriate, the department, county department,
16 contracted agency, or school board shall request the information specified in sub. (2)
17 (am) 1. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under
18 s. 48.65 to operate a day care center, certified as a day care provider under s. 48.651,
19 or contracted under s. 120.13 (14) to operate a day care center (•)

20 2. Every year or at any time within that period that the department, a county
21 department, an agency contracted with under s. 48.651 (2), or a school board
22 considers appropriate, the department, county department, contracted agency, or
23 school board shall request the information specified in sub. (2) (am) 1. and (ar) for
24 all persons who are nonclient residents of a caregiver specified in sub. (1) (ag) 1. b.

1 and for all persons under 18 years of age, but not under 12 years of age, who are
2 caregivers specified in sub. (1) (ag) 1. a. of such a caregiver.

3 **SECTION 16.** 48.685 (3) (b) of the statutes is amended to read:

4 48.685 (3) (b) Every Subject to par. (bm), every 4 years or at any time within
5 that period that an entity considers appropriate, the entity shall request the
6 information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers
7 specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age,~~
8 ~~but not under 12 years of age, who are caregivers of a day care center that is licensed~~
9 ~~under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care~~
10 ~~provider that is certified under s. 48.651.~~

11 **SECTION 17.** 48.685 (3) (bm) of the statutes is created to read:

12 48.685 (3) (bm) Every year or at any time within that period that a day care
13 center that is licensed under s. 48.65 or established or contracted for under s. 120.13
14 (14) or a day care provider that is certified under s. 48.651 considers appropriate, the
15 day care center or day care provider shall request the information specified in sub.
16 (2) (b) 1. a. to e. and 2. for all persons who are caregivers specified in sub. (1) (ag) 1.
17 a. of the day care center or day care provider who are 18 years of age or over.

18 **SECTION 18.** 48.685 (3m) of the statutes is amended to read:

19 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
20 county department, an agency contracted with under s. 48.651 (2), a child welfare
21 agency, or a school board has obtained the information required under sub. (2) (am)
22 or (3) (a) or (am) with respect to a person who is a caregiver specified in sub. (1) (ag)
23 1. b. and that person is also an employee, contractor, or nonclient resident of an
24 entity, the entity is not required to obtain the information specified in sub. (2) (b) 1.
25 or (3) (b) with respect to that person.

1 **SECTION 19.** 48.685 (4m) (a) 1. of the statutes is amended to read:

2 48.685 (**4m**) (a) 1. That the person has been convicted of a serious crime or, if
3 the person is an applicant for issuance or continuation of a license to operate a day
4 care center or for initial certification under s. 48.651 or for renewal of that
5 certification or if the person is proposing to contract with a school board under s.
6 120.13 (14) or to renew a contract under that subsection, that the person has been
7 convicted of a serious crime or adjudicated delinquent on or after his or her 12th
8 birthday for committing a serious crime or that the person is the subject of a pending
9 criminal charge or delinquency petition alleging that the person has committed a
10 serious crime on or after his or her 12th birthday.

11 **SECTION 20.** 48.685 (4m) (ad) of the statutes, [✓]as affected by 2009 Wisconsin Act
12 28, section 1073d, is amended to read:

13 48.685 (**4m**) (ad) The department, a county department, or a child welfare
14 agency may license a foster home or treatment foster home under s. 48.62; the
15 department may license a day care center under s. [✓]48.65; the department in a county
16 having a population of 500,000 or more, a county department, or an agency
17 contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651;,
18 and a school board may contract with a person under s. 120.13 (14), conditioned on
19 the receipt of the information specified in sub. (2) (am) and (ar) indicating that the
20 person is not ineligible to be licensed, certified, or contracted with for a reason
21 specified in par. (a) 1. to 5.

22 **SECTION 21.** 48.685 (4m) (ad) of the statutes, [✓]as affected by 2009 Wisconsin Act
23 28, section 1074d, and 2009 Wisconsin Act (this act), is repealed and recreated to
24 read:

1 48.685 (4m) (ad) The department, a county department, or a child welfare
2 agency may license a foster home under s. 48.62; the department may license a day
3 care center under s. 48.65; the department in a county having a population of 500,000
4 or more, a county department, or an agency contracted with under s. 48.651 (2) may
5 certify a day care provider under s. 48.651; and a school board may contract with a
6 person under s. 120.13 (14), conditioned on the receipt of the information specified
7 in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed,
8 certified, or contracted with for a reason specified in par. (a) 1. to 5.

9 **SECTION 22.** 48.685 (4m) (b) 1. of the statutes is amended to read:

10 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if
11 the person is a caregiver or nonclient resident of a day care center that is licensed
12 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
13 provider that is certified under s. 48.651, that the person has been convicted of a
14 serious crime or adjudicated delinquent on or after his or her 12th birthday for
15 committing a serious crime or that the person is the subject of a pending criminal
16 charge or delinquency petition alleging that the person has committed a serious
17 crime on or after his or her 12th birthday.

18 **SECTION 23.** 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
19 is amended to read:

20 48.685 (5) (a) Subject to ~~par.~~ [✓] pars. (bm) and (br), the department may license
21 to operate an entity, the department in a county having a population of 500,000 or
22 more, a county department, or an agency contracted with under s. 48.651 (2) may
23 certify under s. 48.651, a county department or a child welfare agency may license
24 under s. 48.62, and a school board may contract with under s. 120.13 (14) a person
25 who otherwise may not be licensed, certified, or contracted with for a reason specified

1 in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside
2 at the entity a person who otherwise may not be employed, contracted with, or
3 permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the
4 person demonstrates to the department, the county department, the contracted
5 agency, the child welfare agency, or the school board or, in the case of an entity that
6 is located within the boundaries of a reservation, to the person or body designated
7 by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance
8 with procedures established by the department by rule or by the tribe that he or she
9 has been rehabilitated.

10 **SECTION 24.** 48.685 (5) (br) of the statutes is created to read:

11 48.685 (5) (br) For purposes of licensing a person to operate a day care center
12 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
13 person under s. 120.13 (14) to operate a day care center or of permitting a person to
14 be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day care center
15 or day care provider, no person who has been convicted or adjudicated delinquent on
16 or after his or her 12th birthday for committing any of the following offenses or who
17 is the subject of a pending criminal charge or delinquency petition alleging that the
18 person has committed any of the following offenses on or after his or her 12th
19 birthday may be permitted to demonstrate that he or she has been rehabilitated:

20 1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22
21 (2) or 948.51 (2).

22 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or
23 940.20 (1) or (1m), if the victim is the spouse of the person.

24 3. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1),
25 (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.10 (2), or 943.32 (2).

1 4. A violation of sub. (2), (3), (4m) (b), or (6), if the violation involves the
2 provision of false information to the department, a county department, an agency
3 contracting under s. 48.651 (2), a school board, or an entity.

4 5. An offense involving fraudulent activity as a participant in the Wisconsin
5 works program under ss. 49.141 to 49.161, including as a recipient of a child care
6 subsidy under s. 49.155, or as a recipient of aid to families with dependent children
7 under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits
8 under the food stamp program under 7 USC 2011 to 2036, supplemental security
9 income payments under s. 49.77, payments for the support of children of
10 supplemental security income recipients under s. 49.775, or health care benefits
11 under the Badger Care health care program under s. 49.665.

12 6. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3),
13 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207,
14 940.25, or 943.23 (1g), a violation of s. 948.51 (2) that is a felony under s. 948.51 (3)
15 (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2)
16 (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony,
17 if committed not more than 5 years before the date of the investigation under sub.
18 (2) (am) or (b) 1.

19 7. A violation of s. 948.22 (2), if committed not more than 5 years before the date
20 of the investigation under sub. (2) (am) or (b) 1., unless the person has paid all
21 arrearages due and is meeting his or her current support obligations.

22 **SECTION 25.** 48.685 (5c) (a) of the statutes is amended to read:

23 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to
24 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a
25 child welfare agency that he or she has been rehabilitated may appeal to the

1 secretary or his or her designee. Any person who is adversely affected by a decision
2 of the secretary or his or her designee under this paragraph has a right to a contested
3 case hearing under ch. 227.

4 **SECTION 26.** 48.685 (6) (am) of the statutes is amended to read:

5 48.685 (6) (am) ~~Every~~ Except as provided in this paragraph, every 4 years an
6 entity shall require all of its caregivers and nonclient residents to complete a
7 background information form that is provided to the entity by the department. Every
8 year a day care center that is licensed under s. 48.65 or established or contracted for
9 under s. 120.13 (14) or a day care provider that is certified under s. 48.651 shall
10 require all of its caregivers and nonclient residents to complete a background
11 information form that is provided to the day care center or day care provider by the
12 department.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28.

13 **SECTION 27.** 48.685 (6) (b) 2. of the statutes is amended to read:

14 48.685 (6) (b) 2. For caregivers who are licensed or certified by a county
15 department or an agency contracted with under s. 48.651 (2), for persons who are
16 nonclient residents of an entity that is licensed or certified by a county department
17 or an agency contracted with under s. 48.651 (2), and for other persons specified by
18 the department by rule, the entity shall send the background information form to the
19 county department or contracted agency.

20 **SECTION 28.** 48.685 (8) of the statutes is amended to read:

21 48.685 (8) The department, the department of health services, a county
22 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
23 or a school board may charge a fee for obtaining the information required under sub.
24 (2) (am), (ar), or (3) (a) or (am) or for providing information to an entity to enable the

1 entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable
2 cost of obtaining the information. No fee may be charged to a nurse aide, as defined
3 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
4 inconsistent with federal law.

5 **SECTION 29.** 48.715 (4g) of the statutes is created to read:

6 48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a)
7 or a probationary license under s. 48.69 to operate a day care center is convicted of
8 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
9 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
10 care center is convicted or adjudicated delinquent for committing a serious crime on
11 or after his or her 12th birthday, the department shall revoke the license of the day
12 care center immediately upon providing written notice of revocation and the grounds
13 for revocation and an explanation of the process for appealing the revocation.

14 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
15 probationary license under s. 48.69 to operate a day care center is the subject of a
16 pending criminal charge alleging that the person has committed a serious crime, as
17 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
18 a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care center is the
19 subject of a pending criminal charge or delinquency petition alleging that the person
20 has committed a serious crime on or after his or her 12th birthday, the department
21 shall immediately suspend the license of the day care center until the department
22 obtains information regarding the final disposition of the charge or delinquency
23 petition indicating that the person is not ineligible to be licensed to operate a day care
24 center.

✓

1 **SECTION 30.** 49.133 (intro.) of the statutes is renumbered 49.133 (1m) (a) and
2 amended to read:

3 49.133 (1m) (a) The If a child care provider is convicted of a serious crime, as
4 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
5 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider is
6 convicted or adjudicated delinquent for committing a serious crime on or after his or
7 her 12th birthday, the department or a county department under s. 46.215, 46.22, or
8 46.23 may shall refuse to pay -a- the child care provider for any child care provided
9 under s. 49.132, 1995 stats., or any other program if any of the following applies to
10 the child care provider, employee or person living on the premises where child care
11 is provided: beginning on the date of the conviction or delinquency adjudication.

12 **SECTION 31.** 49.133 (1) of the statutes, ✓ as affected by 2009 Wisconsin Act 28,
13 is renumbered 49.133 (2m) (a) and amended to read:

14 49.133 (2m) (a) The person has been convicted of ~~a felony or misdemeanor that~~
15 or adjudicated delinquent on or after his or her 12th birthday for an offense that is
16 not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department or, county
17 department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651
18 (2), or school board determines under s. 48.685 (5m) that the offense substantially
19 relates to the care of children or the department or county department determines
20 that the offense substantially relates to the operation of a business.

21 **SECTION 32.** 49.133 (1m) (b) of the statutes is created to read:

22 49.133 (1m) (b) If a child care provider is the subject of a pending criminal
23 charge alleging that the person has committed a serious crime, as defined in s. 48.685
24 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident,
25 as defined in s. 48.685 (1) (bm), of the child care provider is the subject of a pending

1 criminal charge or delinquency petition alleging that the person has committed a
2 serious crime on or after his or her 12th birthday, the department or county
3 department under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to
4 the child care provider for any child care provided under s. 49.132, 1995 stats., or any
5 other program until the department obtains information regarding the final
6 disposition of the charge or delinquency petition indicating that the person is not
7 ineligible to receive such a payment.

8 **SECTION 33.** 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and
9 amended to read:

10 49.133 (2m) (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or
11 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending
12 criminal charge that the department or, county department under s. 46.215, 46.22,
13 or 46.23, agency contracted with under s. 48.651 (2), or school board determines
14 substantially relates to the care of children.

15 **SECTION 34.** 49.133 (2m) (intro.) of the statutes is created to read:

16 49.133 (2m) (intro.) The department or a county department under s. 46.215,
17 46.22, or 46.23 may refuse to pay a child care provider for child care provided under
18 s. 49.132, 1995 stats., or any other program if any of the following applies to the child
19 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,
20 as defined in s. 48.685 (1) (bm), of the child care provider:

21 **SECTION 35.** 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

22 **SECTION 36.** 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
23 renumbered 49.133 (2m) (c).

24 **SECTION 37.** 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,
25 is repealed and recreated to read:

1 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (a) 1. If a child care provider
2 is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver
3 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
4 (bm), of the child care provider is convicted or adjudicated delinquent for committing
5 a serious crime on or after his or her 12th birthday, the department or the county
6 department under s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider
7 for any child care provided under this section beginning on the date of the conviction
8 or delinquency adjudication.

9 2. If a child care provider is the subject of a pending criminal charge alleging
10 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or
11 if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
12 s. 48.685 (1) (bm), of the child care provider is the subject of a pending criminal charge
13 or delinquency petition alleging that the person has committed a serious crime on
14 or after his or her 12th birthday, the department or the county department under s.
15 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider
16 for any child care provided under this section until the department obtains
17 information regarding the final disposition of the charge or delinquency petition
18 indicating that the person is not ineligible to receive such a payment.

19 (b) The department or the county department under s. 46.215, 46.22, or 46.23
20 may refuse to pay a child care provider for child care provided under this section if
21 any of the following applies to the child care provider or to a caregiver specified in
22 s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child
23 care provider:

24 1. The person has been convicted of or adjudicated delinquent on or after his
25 or her 12th birthday for committing an offense that is not a serious crime, as defined

1 in s. 48.685 (1) (c) 3m., but the department, county department, agency contracted
2 with under s. 48.651 (2), or school board determines under s. 48.685 (5m) that the
3 offense substantially relates to the care of children or the department or county
4 department determines that the offense substantially relates to the operation of a
5 business.

6 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
7 resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal
8 charge that the department, county department, agency contracted with under s.
9 48.651 (2), or school board determines substantially relates to the care of children.

10 3. The person has been determined under s. 48.981 to have abused or neglected
11 a child.

12 4. The department or county department reasonably suspects that the person
13 has violated any provision under the program under this section or any rule
14 promulgated under this section.

15 **SECTION 38.** 120.13 (14) of the statutes is renumbered 120.13 (14) (a).

16 **SECTION 39.** 120.13 (14) (b) of the statutes is created to read:

17 120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a day
18 care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if
19 a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
20 s. 48.685 (1) (bm), of the day care program is convicted or adjudicated delinquent for
21 committing a serious crime on or after his or her 12th birthday, the school board shall
22 rescind the contract of the contractor immediately upon providing written notice of
23 the rescission and the grounds for the rescission and an explanation of the process
24 for appealing the rescission.

1 2. If a person who has contracted under par. (a) to provide a day care program
2 is the subject of a pending criminal charge alleging that the person has committed
3 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
4 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
5 care program is the subject of a pending criminal charge or delinquency petition
6 alleging that the person has committed a serious crime on or after his or her 12th
7 birthday, the school board shall immediately suspend the contract of the contractor
8 until the school board obtains information regarding the final disposition of the
9 charge or delinquency petition indicating that the person is not ineligible to provide
10 a day care program under this subsection.

11 **SECTION 40. Initial applicability.**

12 (1) RETROACTIVE APPLICATION. This act first applies to a decision to deny,
13 suspend, revoke, rescind, or refuse to renew a license under section 48.65 of the
14 statutes, a certification under section 48.651 of the statutes, or a contract under
15 section 120.13 (14) of the statutes, or to refuse to pay a child care provider under
16 section 49.133 or 49.155 (7) of the statutes, made on the effective date of this
17 subsection, notwithstanding that the conviction, adjudication, or charge on which
18 the decision is based was obtained or filed before the effective date of this subsection.

19 **SECTION 41. Effective dates.** This act takes effect on the first day of the 6th
20 month beginning after publication, except as follows:

21 (1) ELIMINATION OF TREATMENT FOSTER HOMES. The repeal and recreation of
22 section 48.685 (4m) (ad) of the statutes takes effect on the date stated in the notice
23 provided by the secretary of children and families and published in the Wisconsin
24 Administrative Register under section 48.62 (9) of the statutes.

25 **(END)**

Malaise, Gordon

From: Kahn, Carrie
Sent: Friday, September 25, 2009 10:40 AM
To: Malaise, Gordon
Cc: Sappenfield, Anne; McGinnis, Cindy
Subject: Change required to LRB 3492/1

Importance: High

Gordon,

I need a quick additional change to LRB 3492/1.

Could you add that DCF is required to release a report to the related standing committees of the Legislature once per year. This report should describe the information found in the quarterly data matches and any actions the Department took to remedy any data discrepancies or child care providers who were found in violation of any of the requirements of the bill.

Is it possible to get a /2 draft today? Let me know what your timeline is.

Thanks,

Carrie Kahn
Legislative Assistant
State Senator Bob Jauch
P.O. Box 7882
Madison, WI 53707-7882

608-266-3510
1-800-469-6562



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3492/1

GMM:kjf:rs

EN 9/27
Wanted Man 9/28

2009 BILL

see affidavit

Regen

1 AN ACT *to renumber* 49.133 (3), 49.133 (4) and 120.13 (14); *to renumber and*
2 *amend* 49.133 (intro.), 49.133 (1) and 49.133 (2); *to amend* 20.435 (6) (jm),
3 48.685 (1) (c) 4., 48.685 (2) (am) (intro.), 48.685 (2) (am) 5., 48.685 (2) (b) 4.,
4 48.685 (2) (bb), 48.685 (2) (bd), 48.685 (2) (bg), 48.685 (2) (bm), 48.685 (3) (a),
5 48.685 (3) (b), 48.685 (3m), 48.685 (4m) (a) 1., 48.685 (4m) (ad), 48.685 (4m) (b)
6 1., 48.685 (5) (a), 48.685 (5c) (a), 48.685 (6) (am), 48.685 (6) (b) 2. and 48.685 (8);
7 *to repeal and recreate* 48.685 (4m) (ad) and 49.155 (7); and *to create* 48.651
8 (3), 48.685 (1) (c) 3m., 48.685 (2) (ar), 48.685 (2) (b) 2., 48.685 (3) (am), 48.685
9 (3) (bm), 48.685 (5) (br), 48.715 (4g), 49.133 (1m) (b), 49.133 (2m) (intro.) and
10 120.13 (14) (b) of the statutes; **relating to:** prohibiting a person who has been
11 convicted or adjudicated delinquent for committing certain serious crimes or
12 who is the subject of a pending criminal charge or delinquency petition for
13 committing a serious crime from being licensed, certified, or contracted with to
14 provide child care, from being employed or contracted as a caregiver of a child

BILL

- 1 care provider, or from being permitted to reside at a premises where child care
2 is provided and making an appropriation.
-

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families (DCF) may not license a person to operate a day care center; DCF in a county having a population of 500,000 or more, a county department of human services or social services (county department), or an agency contracted by DCF to certify day care providers for purposes of reimbursement under the Wisconsin Works Program (contracted agency) may not certify a day care provider for those purposes; and a school board may not contract with a person to provide a day care program (collectively "child care provider") if the person has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the person shows that he or she has been rehabilitated.

Similarly, a child care provider may not employ or contract with a caregiver or permit a nonclient resident to reside at a premises where child care is provided if the caregiver or nonclient resident has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime, as defined under current law, unless the caregiver or nonclient resident shows that he or she has been rehabilitated. Currently, "serious crime" is defined to include certain crimes against life or bodily security and certain crimes against children that are felonies.

This bill prohibits any person who has been convicted or adjudicated delinquent on or after his or her 12th birthday for committing any of the following serious crimes or who is the subject of a pending criminal charge or delinquency petition alleging that the person has committed any of the following serious crimes on or after his or her 12th birthday from being licensed, certified, or contracted with to provide child care, from being employed or contracted as a caregiver of a child care provider, or from being permitted to be a nonclient resident of a premises where child care is provided and prohibits such a person from showing that he or she has been rehabilitated:

- + *SPOUSAL,*
1. Any crime against children that is a felony, other than felony failure to pay child, spouse, or grandchild support or felony hazing.
 2. Felony battery, if the victim is the spouse of the person.
 3. First-degree or second-degree intentional or reckless homicide, felony murder, mayhem, felony sexual assault, reckless injury, taking hostages, kidnapping, felony endangering safety by use of a dangerous weapon, disarming a police officer, armed burglary, or armed robbery.
 4. A violation of the background check law, if the violation involves the provision of false information to DCF, a county department, a contracted agency, a school board, or a child care provider.
 5. An offense involving fraudulent activity as a participant in the Wisconsin Works Program, including as a recipient of a child care subsidy under that program, or as a recipient of aid to families with dependent children, medical assistance, food

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stamp benefits, supplemental security payments, payments for the support of children of supplemental security income recipients, or health care benefits under the Badger Care program.

6. Any drug or alcohol-related felony, felony battery, carjacking, or felony hazing, if committed not more than five years before the date of the background investigation.

7. Felony failure to pay child, spousal, or grandchild support, if committed not more than five years before the date of the background investigation, unless the person has paid all arrearages and is meeting his or her current support obligation.

Current law requires DCF, a county department, a contracting agency, or a school board, prior to licensing, certifying, or contracting with a child care provider and every four years after that, to conduct a criminal history search of the child care provider, of all nonclient residents of the premises where the child care is provided, and of all persons under 18 years of age who are caregivers of the child care provider and to obtain certain other information with respect to those individuals, specifically: 1) information from the client abuse registry maintained by the Department of Health Services (DHS); 2) information maintained by the Department of Regulation and Licensing regarding the individual's credentials; 3) information maintained by DCF regarding any substantiated reports of child abuse or neglect against the individual; and 4) information maintained by DHS regarding any denial of a license, certification, or contract to provide child care, of employment as a caregiver of a child care provider, or of permission to reside at a premises where child care is provided. Similarly, current law also requires a child care provider to conduct such a criminal history search and to obtain that information with respect to a caregiver 18 years of age or over prior to employing or contracting with the caregiver and every four years after that.

This bill requires DCF, a county department, a contracting agency, or a school board to conduct that criminal history search and to obtain that information with respect to a child care provider every three months after the child care provider is licensed, certified, or contracted with and to conduct that search and obtain that information with respect to a nonclient resident or caregiver under 18 years of age every year after the nonclient resident is permitted to reside at the premises or the caregiver is employed or contracted with. The bill also requires a child care provider to conduct that criminal history search and to obtain that information every year after a caregiver 18 years of age or over is employed or contracted with. In addition to conducting that criminal history search and obtaining that information, the bill requires DCF, a county department, a contracting agency, a school board, or an entity to obtain on those timetables information that is contained in the sex offender registry maintained by the Department of Corrections regarding whether the person has committed a sex offense that is a serious crime.

Under current law, DCF *may* revoke the license of a person to operate a day care center if the licensee or a person under the supervision of the licensee commits certain actions, including a repeated or substantial violation of a rule or order of DCF or of a condition of licensure or an action that directly threatens the health, safety, or welfare of any child under the care of the licensee. Similarly, under current law,

BILL

DCF or a county department *may* refuse to pay a child care provider for child care provided under the Wisconsin Works Program if the child care provider, an employee of the child care provider, or a person living on the premises where child care is provided is convicted of a felony or misdemeanor that substantially relates to the care of children, is the subject of a pending charge that substantiality relates to the care of children, or has been determined to have abused or neglected a child.

This bill *requires* all of the following:

1. DCF to revoke the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to revoke the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to rescind the contract of the person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is convicted of a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is convicted or adjudicated delinquent for committing a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to refuse to pay a child care provider in those circumstances beginning on the date of the conviction or delinquency adjudication.

2. DCF to immediately suspend the license of a day care center; DCF in a county having a population of 500,000 or more, a county department, or a contracted agency to immediately suspend the certification of a day care provider for purposes of reimbursement under the Wisconsin Works Program; and a school board to immediately suspend the contract of a person to operate a day care program; if the person licensed to operate the day care center, the person certified as a child care provider, or the person contracting to provide the day care program is the subject of a pending criminal charge alleging that the person has committed a serious crime or if a caregiver or nonclient resident of the day care center, child care provider, or day care program is the subject of a pending charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday. The bill also requires DCF or a county department to immediately suspend payment to a child care provider for any child care provided under the Wisconsin Works Program in those circumstances until DCF or the county department obtains information regarding the final disposition of the charge or delinquency proceeding indicating that the person is not ineligible to receive such a payment.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (6) (jm) of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

BILL

1 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
2 for the purposes specified in ss. 48.685 (2) (am), (ar), and (b) 1., (3) (a), (am), and (b),
3 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.031, 50.065 (2) (am) and (b) 1., (3) (a) and
4 (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981,
5 and 146.40 (4r) (b) and (er), and subch. IV of ch. 50 and to conduct health facilities
6 plan and rule development activities, for accrediting nursing homes, convalescent
7 homes, and homes for the aged, to conduct capital construction and remodeling plan
8 reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing
9 or certifying, and approving facilities, issuing permits, and providing technical
10 assistance, that are not specified under any other paragraph in this subsection. All
11 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
12 50.031 (6), 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93
13 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing
14 or certifying, and approving facilities, issuing permits, and providing technical
15 assistance, that are not specified under any other paragraph in this subsection, and
16 all moneys received under s. 50.135 (2) shall be credited to this appropriation
17 account.

18 **SECTION 2.** 48.651 (3) of the statutes is created to read:

19 48.651 (3) (a) If a day care provider certified under sub. (1) is convicted of a
20 serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685
21 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care
22 provider is convicted or adjudicated delinquent for committing a serious crime on or
23 after his or her 12th birthday, the department in a county having a population of
24 500,000 or more, a county department, or an agency contracted with under sub. (2)
25 shall revoke the certification of the day care provider immediately upon providing

BILL**SECTION 2**

1 written notice of revocation and the grounds for revocation and an explanation of the
2 process for appealing the revocation.

3 (b) If a day care provider certified under sub. (1) is the subject of a pending
4 criminal charge alleging that the person has committed a serious crime, as defined
5 in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
6 resident, as defined in s. 48.685 (1) (bm), of the day care provider is the subject of a
7 pending criminal charge or delinquency petition alleging that the person has
8 committed a serious crime on or after his or her 12th birthday, the department in a
9 county having a population of 500,000 or more, a county department, or an agency
10 contracted with under sub. (2) shall immediately suspend the certification of the day
11 care provider until the department, county department, or agency obtains
12 information regarding the final disposition of the charge or delinquency petition
13 indicating that the person is not ineligible to be certified under sub. (1).

14 **SECTION 3.** 48.685 (1) (c) 3m. of the statutes is created to read:

15 48.685 (1) (c) 3m. For purposes of licensing a person to operate a day care center
16 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
17 person under s. 120.13 (14) to operate a day care center, or of permitting a person to
18 be a caregiver or nonclient resident of such a day care center or day care provider,
19 any violation listed in subds. 1. to 3. or sub. (5) (br) 1. to 7.

20 **SECTION 4.** 48.685 (1) (c) 4. of the statutes is amended to read:

21 48.685 (1) (c) 4. A violation of the law of any other state or United States
22 jurisdiction that would be a violation listed in subd. 1., 2., ~~or 3.~~, or 3m. if committed
23 in this state.

24 **SECTION 5.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

BILL

1 48.685 (2) (am) (intro.) The department, a county department, an agency
2 contracted with under s. 48.651 (2), a child welfare agency, or a school board shall
3 obtain all of the following with respect to a caregiver specified in sub. (1) (ag) 1. b.,
4 a nonclient resident of an entity, and a person under 18 years of age, but not under
5 12 years of age, who is a caregiver of a day care center that is licensed under s. 48.65
6 or established or contracted for under s. 120.13 (14) or of a day care provider that is
7 certified under s. 48.651:

8 **SECTION 6.** 48.685 (2) (am) 5. of the statutes is amended to read:

9 48.685 (2) (am) 5. Information maintained by the department of health services
10 under this section and under ss. 48.651 (2m), 48.75 (1m), and 120.13 (14) regarding
11 any denial to the person of a license, continuation or renewal of a license,
12 certification, or a contract to operate an entity for a reason specified in sub. (4m) (a)
13 1. to 5. and regarding any denial to the person of employment at, a contract with, or
14 permission to reside at an entity for a reason specified in sub. (4m) (b) 1. to 5. If the
15 information obtained under this subdivision indicates that the person has been
16 denied a license, continuation or renewal of a license, certification, a contract,
17 employment, or permission to reside as described in this subdivision, the
18 department, a county department, an agency contracted with under s. 48.651 (2), a
19 child welfare agency, or a school board need not obtain the information specified in
20 subds. 1. to 4.

21 **SECTION 7.** 48.685 (2) (ar) of the statutes is created to read:

22 48.685 (2) (ar) In addition to obtaining the information specified in par. (am)
23 with respect to a person who has, or is seeking, a license to operate a day care center
24 under s. 48.65, certification as a day care provider under s. 48.651, or a contract
25 under s. 120.13 (14) to operate a day care center, a nonclient resident of such an

BILL**SECTION 7**

1 entity, or a person under 18 years of age, but not under 12 years of age, who is a
2 caregiver of such an entity, the department, a county department, an agency
3 contracted with under s. 48.651 (2), or a school board shall obtain information that
4 is contained in the sex offender registry under s. 301.45 regarding whether the
5 person has committed a sex offense that is a serious crime.

6 **SECTION 8.** 48.685 (2) (b) 2. of the statutes is created to read:

7 48.685 (2) (b) 2. In addition to obtaining the information specified in subd. 1.
8 with respect to a caregiver specified in sub. (1) (ag) 1. a. of a day care center that is
9 licensed under s. 48.65 or established or contracted for under s. 120.13 (14) or of a
10 day care provider that is certified under s. 48.651, the day care center or day care
11 provider shall obtain information that is contained in the sex offender registry under
12 s. 301.45 regarding whether the person has committed a sex offense that is a serious
13 crime.

14 **SECTION 9.** 48.685 (2) (b) 4. of the statutes is amended to read:

15 48.685 (2) (b) 4. ~~Subdivision 1. does~~ Subdivisions 1. and 2. do not apply with
16 respect to a nonclient resident or person under 18 years of age, but not under 12 years
17 of age, who is a caregiver or nonclient resident of a day care center that is licensed
18 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
19 provider that is certified under s. 48.651 and with respect to whom the department,
20 a county department, an agency contracted with under s. 48.651 (2), or a school board
21 is required under par. (am) (intro.) to obtain the information specified in par. (am)
22 1. to 5.

23 **SECTION 10.** 48.685 (2) (bb) of the statutes is amended to read:

24 48.685 (2) (bb) If information obtained under par. (am) or (b) 1. indicates a
25 charge of a serious crime, but does not completely and clearly indicate the final

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1 disposition of the charge, the department, county department, agency contracted
2 with under s. 48.651 (2), child welfare agency, school board, or entity shall make
3 every reasonable effort to contact the clerk of courts to determine the final disposition
4 of the charge. If a background information form under sub. (6) (a) or (am) indicates
5 a charge or a conviction of a serious crime, but information obtained under par. (am)
6 or (b) 1. does not indicate such a charge or conviction, the department, county
7 department, agency contracted with under s. 48.651 (2), child welfare agency, school
8 board, or entity shall make every reasonable effort to contact the clerk of courts to
9 obtain a copy of the criminal complaint and the final disposition of the complaint.
10 If information obtained under par. (am) or (b) 1., a background information form
11 under sub. (6) (a) or (am), or any other information indicates a conviction of a
12 violation of s. 940.19 (1), 940.195, 940.20, 941.30, 942.08, 947.01, or 947.013 obtained
13 not more than 5 years before the date on which that information was obtained, the
14 department, county department, agency contracted with under s. 48.651 (2), child
15 welfare agency, school board, or entity shall make every reasonable effort to contact
16 the clerk of courts to obtain a copy of the criminal complaint and judgment of
17 conviction relating to that violation.

18 **SECTION 11.** 48.685 (2) (bd) of the statutes is amended to read:

19 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
20 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
21 or a school board is not required to obtain the information specified in par. (am) 1.
22 to 5., and an entity is not required to obtain the information specified in par. (b) 1.
23 a. to e., with respect to a person under 18 years of age whose background information
24 form under sub. (6) (am) indicates that the person is not ineligible to be employed,
25 contracted with, or permitted to reside at an entity for a reason specified in sub. (4m)

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(b) 1. to 5. and with respect to whom the department, county department, contracted agency, child welfare agency, school board, or entity otherwise has no reason to believe that the person is ineligible to be employed, contracted with, or permitted to reside at an entity for any of those reasons. This paragraph does not preclude the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board from obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect to a person described in this paragraph who is a nonclient resident or a prospective nonclient resident of an entity.

SECTION 12. 48.685 (2) (bg) of the statutes is amended to read:

48.685 (2) (bg) If an entity employs or contracts with a caregiver for whom, within the last ~~4 years~~ year, the information required under par. (b) 1. a. to c. and e. has already been obtained by another entity, the entity may obtain that information from that other entity, which shall provide the information, if possible, to the requesting entity. If an entity cannot obtain the information required under par. (b) 1. a. to c. and e. from another entity or if an entity has reasonable grounds to believe that any information obtained from another entity is no longer accurate, the entity shall obtain that information from the sources specified in par. (b) 1. a. to c. and e.

SECTION 13. 48.685 (2) (bm) of the statutes is amended to read:

48.685 (2) (bm) If the person who is the subject of the search under par. (am), (ar), or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding the date of the search that person has not been a resident of this state, or if the department, county department, agency contracted with under s. 48.651 (2), child welfare agency, school board, or entity determines that the person's employment, licensing, or state court records provide a reasonable basis for further investigation, the department, county department, contracted agency, child welfare

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1 agency, school board, or entity shall make a good faith effort to obtain from any state
2 or other United States jurisdiction in which the person is a resident or was a resident
3 within the 3 years preceding the date of the search information that is equivalent to
4 the information specified in par. (am) 1., (ar), or (b) 1. a. The department, county
5 department, contracted agency, child welfare agency, school board, or entity may
6 require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete
7 set of the person's fingerprints. The department of justice may provide for the
8 submission of the fingerprint cards to the federal bureau of investigation for the
9 purposes of verifying the identity of the person fingerprinted and obtaining records
10 of his or her criminal arrests and convictions.

11 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

12 48.685 (3) (a) Every Subject to par. (am), every 4 years or at any time within
13 that period that the department, a county department, or a child welfare agency, ~~or~~
14 ~~a school board~~ considers appropriate, the department, county department, or child
15 welfare agency, ~~or school board~~ shall request the information specified in sub. (2)
16 (am) 1. to 5. for all caregivers specified in sub. (1) (ag) 1. b. who are licensed, certified,
17 or contracted to operate an entity, and for all persons who are nonclient residents of
18 such a caregiver, ~~and for all persons under 18 years of age, but not under 12 years~~
19 ~~of age, who are caregivers of a day care center that is licensed under s. 48.65 or~~
20 ~~established or contracted for under s. 120.13 (14) or of a day care provider that is~~
21 ~~certified under s. 48.651.~~

22 **SECTION 15.** 48.685 (3) (am) of the statutes is created to read:

23 48.685 (3) (am) 1. Every 3 months or at any time within that period that the
24 department, a county department, an agency contracted with under s. 48.651 (2), or
25 a school board considers appropriate, the department, county department,

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1 contracted agency, or school board shall request the information specified in sub. (2)
2 (am) 1. and (ar) for all caregivers specified in sub. (1) (ag) 1. b. who are licensed under
3 s. 48.65 to operate a day care center, certified as a day care provider under s. 48.651,
4 or contracted under s. 120.13 (14) to operate a day care center.

5 2. Every year or at any time within that period that the department, a county
6 department, an agency contracted with under s. 48.651 (2), or a school board
7 considers appropriate, the department, county department, contracted agency, or
8 school board shall request the information specified in sub. (2) (am) 1. and (ar) for
9 all persons who are nonclient residents of a caregiver specified in sub. (1) (ag) 1. b.
10 and for all persons under 18 years of age, but not under 12 years of age, who are
11 caregivers specified in sub. (1) (ag) 1. a. of such a caregiver.

12 **SECTION 16.** 48.685 (3) (b) of the statutes is amended to read:

13 48.685 (3) (b) ~~Every Subject to par. (bm), every~~ 4 years or at any time within
14 that period that an entity considers appropriate, the entity shall request the
15 information specified in sub. (2) (b) 1. a. to e. for all persons who are caregivers
16 specified in sub. (1) (ag) 1. a. of the entity ~~other than persons under 18 years of age,~~
17 ~~but not under 12 years of age, who are caregivers of a day care center that is licensed~~
18 ~~under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care~~
19 ~~provider that is certified under s. 48.651.~~

20 **SECTION 17.** 48.685 (3) (bm) of the statutes is created to read:

21 48.685 (3) (bm) Every year or at any time within that period that a day care
22 center that is licensed under s. 48.65 or established or contracted for under s. 120.13
23 (14) or a day care provider that is certified under s. 48.651 considers appropriate, the
24 day care center or day care provider shall request the information specified in sub.

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(2) (b) 1. a. to e. and 2. for all persons who are caregivers specified in sub. (1) (ag) 1. a. of the day care center or day care provider who are 18 years of age or over.

SECTION 18. 48.685 (3m) of the statutes is amended to read:

48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a county department, an agency contracted with under s. 48.651 (2), a child welfare agency, or a school board has obtained the information required under sub. (2) (am) or (3) (a) or (am) with respect to a person who is a caregiver specified in sub. (1) (ag) 1. b. and that person is also an employee, contractor, or nonclient resident of an entity, the entity is not required to obtain the information specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

SECTION 19. 48.685 (4m) (a) 1. of the statutes is amended to read:

48.685 (4m) (a) 1. That the person has been convicted of a serious crime or, if the person is an applicant for issuance or continuation of a license to operate a day care center or for initial certification under s. 48.651 or for renewal of that certification or if the person is proposing to contract with a school board under s. 120.13 (14) or to renew a contract under that subsection, that the person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime or that the person is the subject of a pending criminal charge or delinquency petition alleging that the person has committed a serious crime on or after his or her 12th birthday.

SECTION 20. 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act 28, section 1073d, is amended to read:

48.685 (4m) (ad) The department, a county department, or a child welfare agency may license a foster home or treatment foster home under s. 48.62; the department may license a day care center under s. 48.65; the department in a county

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1 having a population of 500,000 or more, a county department, or an agency
2 contracted with under s. 48.651 (2) may certify a day care provider under s. 48.651;
3 and a school board may contract with a person under s. 120.13 (14), conditioned on
4 the receipt of the information specified in sub. (2) (am) and (ar) indicating that the
5 person is not ineligible to be licensed, certified, or contracted with for a reason
6 specified in par. (a) 1. to 5.

7 **SECTION 21.** 48.685 (4m) (ad) of the statutes, as affected by 2009 Wisconsin Act
8 28, section 1074d, and 2009 Wisconsin Act (this act), is repealed and recreated to
9 read:

10 48.685 (4m) (ad) The department, a county department, or a child welfare
11 agency may license a foster home under s. 48.62; the department may license a day
12 care center under s. 48.65; the department in a county having a population of 500,000
13 or more, a county department, or an agency contracted with under s. 48.651 (2) may
14 certify a day care provider under s. 48.651; and a school board may contract with a
15 person under s. 120.13 (14), conditioned on the receipt of the information specified
16 in sub. (2) (am) and (ar) indicating that the person is not ineligible to be licensed,
17 certified, or contracted with for a reason specified in par. (a) 1. to 5.

18 **SECTION 22.** 48.685 (4m) (b) 1. of the statutes is amended to read:

19 48.685 (4m) (b) 1. That the person has been convicted of a serious crime or, if
20 the person is a caregiver or nonclient resident of a day care center that is licensed
21 under s. 48.65 or established or contracted for under s. 120.13 (14) or of a day care
22 provider that is certified under s. 48.651, that the person has been convicted of a
23 serious crime or adjudicated delinquent on or after his or her 12th birthday for
24 committing a serious crime or that the person is the subject of a pending criminal

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1 charge or delinquency petition alleging that the person has committed a serious
2 crime on or after his or her 12th birthday.

3 **SECTION 23.** 48.685 (5) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 48.685 (5) (a) Subject to ~~par. pars.~~ (bm) and (br), the department may license
6 to operate an entity, the department in a county having a population of 500,000 or
7 more, a county department, or an agency contracted with under s. 48.651 (2) may
8 certify under s. 48.651, a county department or a child welfare agency may license
9 under s. 48.62, and a school board may contract with under s. 120.13 (14) a person
10 who otherwise may not be licensed, certified, or contracted with for a reason specified
11 in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside
12 at the entity a person who otherwise may not be employed, contracted with, or
13 permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the
14 person demonstrates to the department, the county department, the contracted
15 agency, the child welfare agency, or the school board or, in the case of an entity that
16 is located within the boundaries of a reservation, to the person or body designated
17 by the tribe under sub. (5d) (a) 3., by clear and convincing evidence and in accordance
18 with procedures established by the department by rule or by the tribe that he or she
19 has been rehabilitated.

20 **SECTION 24.** 48.685 (5) (br) of the statutes is created to read:

21 48.685 (5) (br) For purposes of licensing a person to operate a day care center
22 under s. 48.65, certifying a day care provider under s. 48.651, or contracting with a
23 person under s. 120.13 (14) to operate a day care center or of permitting a person to
24 be a nonclient resident or caregiver specified in sub. (1) (ag) 1. a. of a day care center
25 or day care provider, no person who has been convicted or adjudicated delinquent on

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1 or after his or her 12th birthday for committing any of the following offenses or who
2 is the subject of a pending criminal charge or delinquency petition alleging that the
3 person has committed any of the following offenses on or after his or her 12th
4 birthday may be permitted to demonstrate that he or she has been rehabilitated:

5 1. An offense under ch. 948 that is a felony, other than a violation of s. 948.22
6 (2) or 948.51 (2).

7 2. A violation of s. 940.19 (3), 1999 stats., or of s. 940.19 (2), (4), (5), or (6) or
8 940.20 (1) or (1m), if the victim is the spouse of the person.

9 3. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.21, 940.225 (1),
10 (2), or (3), 940.23, 940.305, 940.31, 941.20 (2) or (3), 941.21, 943.10 (2), or 943.32 (2).

11 4. A violation of sub. (2), (3), (4m) (b), or (6), if the violation involves the
12 provision of false information to the department, a county department, an agency
13 contracting under s. 48.651 (2), a school board, or an entity.

14 5. An offense involving fraudulent activity as a participant in the Wisconsin
15 Works program under ss. 49.141 to 49.161, including as a recipient of a child care
16 subsidy under s. 49.155, or as a recipient of aid to families with dependent children
17 under s. 49.19, medical assistance under subch. IV of ch. 49, food stamps benefits
18 under the food stamp program under 7 USC 2011 to 2036, supplemental security
19 income payments under s. 49.77, payments for the support of children of
20 supplemental security income recipients under s. 49.775, or health care benefits
21 under the Badger Care health care program under s. 49.665.

22 6. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b), 125.66 (3),
23 125.68 (12), 940.09, 940.19 (2), (4), (5), or (6), 940.20, 940.203, 940.205, 940.207,
24 940.25, or 943.23 (1g), a violation of s. 948.51 (2) that is a felony under s. 948.51 (3)
25 (b) or (c), a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under s. 346.65 (2)

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1 (am) 5., 6., or 7., or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony,
2 if committed not more than 5 years before the date of the investigation under sub.
3 (2) (am) or (b) 1.

4 7. A violation of s. 948.22 (2), if committed not more than 5 years before the date
5 of the investigation under sub. (2) (am) or (b) 1., unless the person has paid all
6 arrearages due and is meeting his or her current support obligations.

7 **SECTION 25.** 48.685 (5c) (a) of the statutes is amended to read:

8 48.685 (5c) (a) Any person who is permitted but fails under sub. (5) (a) to
9 demonstrate to the department, an agency contracted with under s. 48.651 (2), or a
10 child welfare agency that he or she has been rehabilitated may appeal to the
11 secretary or his or her designee. Any person who is adversely affected by a decision
12 of the secretary or his or her designee under this paragraph has a right to a contested
13 case hearing under ch. 227.

14 **SECTION 26.** 48.685 (6) (am) of the statutes is amended to read:

15 48.685 (6) (am) Every Except as provided in this paragraph, every 4 years an
16 entity shall require all of its caregivers and nonclient residents to complete a
17 background information form that is provided to the entity by the department. Every
18 year a day care center that is licensed under s. 48.65 or established or contracted for
19 under s. 120.13 (14) or a day care provider that is certified under s. 48.651 shall
20 require all of its caregivers and nonclient residents to complete a background
21 information form that is provided to the day care center or day care provider by the
22 department.

23 **SECTION 27.** 48.685 (6) (b) 2. of the statutes is amended to read:

24 48.685 (6) (b) 2. For caregivers who are licensed or certified by a county
25 department or an agency contracted with under s. 48.651 (2), for persons who are

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1 nonclient residents of an entity that is licensed or certified by a county department
2 or an agency contracted with under s. 48.651 (2), and for other persons specified by
3 the department by rule, the entity shall send the background information form to the
4 county department or contracted agency.

5 **SECTION 28.** 48.685 (8) of the statutes is amended to read:

6 48.685 (8) The department, the department of health services, a county
7 department, an agency contracted with under s. 48.651 (2), a child welfare agency,
8 or a school board may charge a fee for obtaining the information required under sub.
9 (2) (am), (ar), or (3) (a) or (am) or for providing information to an entity to enable the
10 entity to comply with sub. (2) (b) 1. or (3) (b). The fee may not exceed the reasonable
11 cost of obtaining the information. No fee may be charged to a nurse aide, as defined
12 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
13 inconsistent with federal law.

14 **SECTION 29.** 48.715 (4g) of the statutes is created to read:

15 48.715 (4g) (a) If a person who has been issued a license under s. 48.66 (1) (a)
16 or a probationary license under s. 48.69 to operate a day care center is convicted of
17 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
18 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
19 care center is convicted or adjudicated delinquent for committing a serious crime on
20 or after his or her 12th birthday, the department shall revoke the license of the day
21 care center immediately upon providing written notice of revocation and the grounds
22 for revocation and an explanation of the process for appealing the revocation.

23 (b) If a person who has been issued a license under s. 48.66 (1) (a) or a
24 probationary license under s. 48.69 to operate a day care center is the subject of a
25 pending criminal charge alleging that the person has committed a serious crime, as

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1 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
2 a nonclient resident, as defined in s. 48.685 (1) (bm), of the day care center is the
3 subject of a pending criminal charge or delinquency petition alleging that the person
4 has committed a serious crime on or after his or her 12th birthday, the department
5 shall immediately suspend the license of the day care center until the department
6 obtains information regarding the final disposition of the charge or delinquency
7 petition indicating that the person is not ineligible to be licensed to operate a day care
8 center.

9 **SECTION 30.** 49.133 (intro.) of the statutes is renumbered 49.133 (1m) (a) and
10 amended to read:

11 49.133 (1m) (a) The If a child care provider is convicted of a serious crime, as
12 defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or
13 a nonclient resident, as defined in s. 48.685 (1) (bm), of the child care provider is
14 convicted or adjudicated delinquent for committing a serious crime on or after his or
15 her 12th birthday, the department or a county department under s. 46.215, 46.22, or
16 46.23 may shall refuse to pay -a- the child care provider for any child care provided
17 under s. 49.132, 1995 stats., or any other program if any of the following applies to
18 the child care provider, employee or person living on the premises where child care
19 is provided: beginning on the date of the conviction or delinquency adjudication.

20 **SECTION 31.** 49.133 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
21 is renumbered 49.133 (2m) (a) and amended to read:

22 49.133 (2m) (a) The person has been convicted of ~~a felony or misdemeanor that~~
23 or adjudicated delinquent on or after his or her 12th birthday for an offense that is
24 not a serious crime, as defined in s. 48.685 (1) (c) 3m., but the department or, county
25 department under s. 46.215, 46.22, or 46.23, agency contracted with under s. 48.651

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1 (2), or school board determines under s. 48.685 (5m) that the offense substantially
2 relates to the care of children or the department or county department determines
3 that the offense substantially relates to the operation of a business.

4 **SECTION 32.** 49.133 (1m) (b) of the statutes is created to read:

5 49.133 **(1m)** (b) If a child care provider is the subject of a pending criminal
6 charge alleging that the person has committed a serious crime, as defined in s. 48.685
7 (1) (c) 3m., or if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident,
8 as defined in s. 48.685 (1) (bm), of the child care provider is the subject of a pending
9 criminal charge or delinquency petition alleging that the person has committed a
10 serious crime on or after his or her 12th birthday, the department or county
11 department under s. 46.215, 46.22, or 46.23 shall immediately suspend payment to
12 the child care provider for any child care provided under s. 49.132, 1995 stats., or any
13 other program until the department obtains information regarding the final
14 disposition of the charge or delinquency petition indicating that the person is not
15 ineligible to receive such a payment.

16 **SECTION 33.** 49.133 (2) of the statutes is renumbered 49.133 (2m) (b) and
17 amended to read:

18 49.133 **(2m)** (b) The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or
19 a nonclient resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending
20 criminal charge that the department or, county department under s. 46.215, 46.22,
21 or 46.23, agency contracted with under s. 48.651 (2), or school board determines
22 substantially relates to the care of children.

23 **SECTION 34.** 49.133 (2m) (intro.) of the statutes is created to read:

24 49.133 **(2m)** (intro.) The department or a county department under s. 46.215,
25 46.22, or 46.23 may refuse to pay a child care provider for child care provided under

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1 s. 49.132, 1995 stats., or any other program if any of the following applies to the child
2 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,
3 as defined in s. 48.685 (1) (bm), of the child care provider:

4 **SECTION 35.** 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

5 **SECTION 36.** 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
6 renumbered 49.133 (2m) (c).

7 **SECTION 37.** 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,
8 is repealed and recreated to read:

9 **49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS.** (a) 1. If a child care provider
10 is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver
11 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
12 (bm), of the child care provider is convicted or adjudicated delinquent for committing
13 a serious crime on or after his or her 12th birthday, the department or the county
14 department under s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider
15 for any child care provided under this section beginning on the date of the conviction
16 or delinquency adjudication.

17 2. If a child care provider is the subject of a pending criminal charge alleging
18 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or
19 if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
20 s. 48.685 (1) (bm), of the child care provider is the subject of a pending criminal charge
21 or delinquency petition alleging that the person has committed a serious crime on
22 or after his or her 12th birthday, the department or the county department under s.
23 46.215, 46.22, or 46.23 shall immediately suspend payment to the child care provider
24 for any child care provided under this section until the department obtains

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1 information regarding the final disposition of the charge or delinquency petition
2 indicating that the person is not ineligible to receive such a payment.

3 (b) The department or the county department under s. 46.215, 46.22, or 46.23
4 may refuse to pay a child care provider for child care provided under this section if
5 any of the following applies to the child care provider or to a caregiver specified in
6 s. 48.685 (1) (ag) 1. a. or nonclient resident, as defined in s. 48.685 (1) (bm), of the child
7 care provider:

8 1. The person has been convicted of or adjudicated delinquent on or after his
9 or her 12th birthday for committing an offense that is not a serious crime, as defined
10 in s. 48.685 (1) (c) 3m., but the department, county department, agency contracted
11 with under s. 48.651 (2), or school board determines under s. 48.685 (5m) that the
12 offense substantially relates to the care of children or the department or county
13 department determines that the offense substantially relates to the operation of a
14 business.

15 2. The person is a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient
16 resident, as defined in s. 48.685 (1) (bm), and is the subject of a pending criminal
17 charge that the department, county department, agency contracted with under s.
18 48.651 (2), or school board determines substantially relates to the care of children.

19 3. The person has been determined under s. 48.981 to have abused or neglected
20 a child.

21 4. The department or county department reasonably suspects that the person
22 has violated any provision under the program under this section or any rule
23 promulgated under this section.

24 **SECTION 38.** 120.13 (14) of the statutes is renumbered 120.13 (14) (a).

25 **SECTION 39.** 120.13 (14) (b) of the statutes is created to read:

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1 120.13 (14) (b) 1. If a person who has contracted under par. (a) to provide a day
2 care program is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if
3 a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in
4 s. 48.685 (1) (bm), of the day care program is convicted or adjudicated delinquent for
5 committing a serious crime on or after his or her 12th birthday, the school board shall
6 rescind the contract of the contractor immediately upon providing written notice of
7 the rescission and the grounds for the rescission and an explanation of the process
8 for appealing the rescission.

9 2. If a person who has contracted under par. (a) to provide a day care program
10 is the subject of a pending criminal charge alleging that the person has committed
11 a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver specified in s.
12 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1) (bm), of the day
13 care program is the subject of a pending criminal charge or delinquency petition
14 alleging that the person has committed a serious crime on or after his or her 12th
15 birthday, the school board shall immediately suspend the contract of the contractor
16 until the school board obtains information regarding the final disposition of the
17 charge or delinquency petition indicating that the person is not ineligible to provide
18 a day care program under this subsection.

19 **SECTION 40. Initial applicability.**

20 (1) RETROACTIVE APPLICATION. This act first applies to a decision to deny,
21 suspend, revoke, rescind, or refuse to renew a license under section 48.65 of the
22 statutes, a certification under section 48.651 of the statutes, or a contract under
23 section 120.13 (14) of the statutes, or to refuse to pay a child care provider under
24 section 49.133 or 49.155 (7) of the statutes, made on the effective date of this

BILL**SECTION 40**

1 subsection, notwithstanding that the conviction, adjudication, or charge on which
2 the decision is based was obtained or filed before the effective date of this subsection.

3 **SECTION 41. Effective dates.** This act takes effect on the first day of the 6th
4 month beginning after publication, except as follows:

5 (1) **ELIMINATION OF TREATMENT FOSTER HOMES.** The repeal and recreation of
6 section 48.685 (4m) (ad) of the statutes takes effect on the date stated in the notice
7 provided by the secretary of children and families and published in the Wisconsin
8 Administrative Register under section 48.62 (9) of the statutes.

9 (END)

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3492/2ins
GMM.....

(INSERT 12-4)

1 *no H* Beginning on January 1, 2011, and annually after that, the department shall ✓
2 submit a report to the appropriate standing committees of the legislature under s.
3 13.172 (3) describing the information collected under this subdivision, specifically ✓
4 any information indicating that a caregiver specified in sub. (1) (ag) 1. b. is ineligible ✓
5 under sub. (4m) (a) to be licensed under s. 48.65 to operate a day care center, certified ✓
6 under s. 48.651 as a child care provider, or contracted under s. 120.13 (14) to operate ✓
7 a day care center, and describing any action taken in response to the receipt of
8 information under this subdivision indicating that such a caregiver is so ineligible.

(END OF INSERT)

Barman, Mike

From: Kahn, Carrie
Sent: Thursday, October 01, 2009 10:05 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3492/2 Topic: Day care licensing

Please Jacket LRB 09-3492/2 for the SENATE.

-3492/2
GMM

CCC
to
SB 331

⑨ #. Page 21, line 12: delete "(c)"
and substitute "(d)".

<END>

cjs

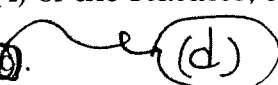
SENATE BILL 331

1 criminal charge that the department or county department under s. 46.215, 46.22,
2 or 46.23, agency contracted with under s. 48.651 (2), or school board determines
3 substantially relates to the care of children.

4 **SECTION 34.** 49.133 (2m) (intro.) of the statutes is created to read:

5 49.133 **(2m)** (intro.) The department or a county department under s. 46.215,
6 46.22, or 46.23 may refuse to pay a child care provider for child care provided under
7 s. 49.132, 1995 stats., or any other program if any of the following applies to the child
8 care provider or to a caregiver specified in s. 48.685 (1) (ag) 1. a. or nonclient resident,
9 as defined in s. 48.685 (1) (bm), of the child care provider:

10 **SECTION 35.** 49.133 (3) of the statutes is renumbered 49.133 (2m) (c).

11 **SECTION 36.** 49.133 (4) of the statutes, as created by 2009 Wisconsin Act 28, is
12 renumbered 49.133 (2m) ~~(b)~~. 

13 **SECTION 37.** 49.155 (7) of the statutes, as affected by 2009 Wisconsin Act 28,
14 is repealed and recreated to read:

15 49.155 **(7)** REFUSAL TO PAY CHILD CARE PROVIDERS. (a) 1. If a child care provider
16 is convicted of a serious crime, as defined in s. 48.685 (1) (c) 3m., or if a caregiver
17 specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in s. 48.685 (1)
18 (bm), of the child care provider is convicted or adjudicated delinquent for committing
19 a serious crime on or after his or her 12th birthday, the department or the county
20 department under s. 46.215, 46.22, or 46.23 shall refuse to pay the child care provider
21 for any child care provided under this section beginning on the date of the conviction
22 or delinquency adjudication.

23 2. If a child care provider is the subject of a pending criminal charge alleging
24 that the person has committed a serious crime, as defined in s. 48.685 (1) (c) 3m., or
25 if a caregiver specified in s. 48.685 (1) (ag) 1. a. or a nonclient resident, as defined in



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

2009 SENATE BILL 331

Prepared by the Legislative Reference Bureau
(October 14, 2009)

1. Page 21, line 12: delete "(c)" and substitute "(d)".

(END)